

DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Protest Alleging Unauthorized Use of Proprietary Data]

FILE: B-200831.2

DATE: February 26, 1981

MATTER OF: Kisco Company, Inc.

DIGEST:

1. GAO will not adjudicate dispute between private parties as to rights in data.
2. GAO will not conduct investigations pursuant to its Bid Protest Procedures.

Kisco Company, Inc. (Kisco) protests any consideration by the Army Armament Materiel Readiness Command of a value engineering change proposal (VECP) submitted by Heckethorn Manufacturing Company (Heckethorn) under facilities contract No. DAAA09-78-C-0042. Kisco also requests that our Office conduct an "appropriate investigation" of this matter. For the reasons stated below, we are dismissing the protest. *DL 06212*

According to Kisco, the VECP contains a proposal by Heckethorn to develop a certain production method for the manufacture of grenades which is based on a concept initially developed by Kisco and which involves the unauthorized use of Kisco's proprietary data.

In some cases we have considered claims of misuse of proprietary data. We have done so "in order not to give any semblance of approval to improper disclosures of data and so as not to expose the Government to liability for damages resulting from the disclosures." Data General Corporation, 55 Comp. Gen. 1040 (1976), 76-1 CPD 287. Thus, where it was clear that the Government's use of data in a solicitation was violative of a contractor's proprietary rights, we directed cancellation of the solicitation. 49 Comp. Gen. 28 (1969); 43 Comp. Gen. 193 (1963). On the other hand, where it was not clear that improper use was being made

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of data, or where it was clear that proprietary rights were not being violated, we refused to interfere with the procurement. See, e.g., Curtiss-Wright Corporation, 55 Comp. Gen. 1289 (1976), 76-2 CPD 54; 52 Comp. Gen. 312 (1972); 49 Comp. Gen. 471 (1970). In none of these cases, however, have we adjudicated a dispute between private parties as to rights in data.

Here, the protester has not alleged any wrongdoing on the part of the Government. Moreover, even if the Army accepts the VECP submitted by Heckethorn, that fact alone does not necessarily indicate wrongdoing on the part of the Government. We therefore believe that this issue is basically a dispute between private parties which is not for consideration under our Bid Protest Procedures. See Bingham, Ltd., B-189306, October 4, 1977, 77-2 CPD 263. With regard to Kisco's request for an investigation, it is not our function to conduct investigations pursuant to our Bid Protest Procedures. Sheldon G. Kall, B-199120, September 23, 1980, 80-2 CPD 221.

The protest is dismissed.

Milton J. Socolar
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General Counsel